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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/649,445	08/26/2003	Ellis A. Pinder	CM06341J	5762

7590

11/29/2005

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EXAMINER
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GARY, ERIKA A

ART UNIT	PAPER NUMBER
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2681

DATE MAILED: 11/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/649,445	Applicant(s) PINDER, ELLIS A.	
	Examiner Erika A. Gary	Art Unit 2681	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 13 September 2005.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

**DETAILED ACTION**

***Claim Objections***

1. Claim 2 is objected to because of the following informalities: on line 7, "at the radio" should be "at the communication device". Appropriate correction is required.

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 12 and 14 rejected under 35 U.S.C. 102(b) as being anticipated by Vapaakoski et al., US Patent Number 6,164,547 (hereinafter Vapaakoski).

Regarding claims 12 and 14, Vapaakoski discloses an intrinsically safe operating system (and method) comprising: a communication device having communication device type certification parameters stored therein; a peripheral device that attaches to the communication device, the peripheral device having peripheral device type certification parameters stored therein; and the communication device restricting the operation of the peripheral device when the communication device type certification parameters and peripheral device type certification parameters are incompatible [col. 1: line 55 – col. 2: line 29].

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-11, 13, and 15-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vapaakoski in view of Kenton et al., US Patent Number 6,272,560 (hereinafter Kenton).

Regarding claims 1, 2, and 6, Vapaakoski discloses an intrinsically safe operating system (and method) comprising: a communication device having communication device type certification parameters stored therein; a peripheral device that attaches to the communication device, the peripheral device having peripheral device type certification parameters stored therein; and the communication device restricting the operation of the peripheral device when the communication device type certification parameters and peripheral device type certification parameters are incompatible [col. 1: line 55 – col. 2: line 29].

What Vapaakoski does not specifically disclose is that the compatibility determination is based solely on a reading initiated by the communication device. However, Kenton teaches this limitation [abstract; col. 2: lines 9-15; col. 8: lines 15-25].

Vapaakoski and Kenton are combinable because they are from the same field of endeavor, that is, determining compatibility of communication devices and peripheral devices. At the time of the invention, it would have been obvious to one of ordinary skill in the art to modify Vapaakoski to include Kenton. The motivation for this combination

would have been to require less processing power by having the communication device make the determination.

Regarding claim 3, Vapaakoski discloses the communication device is a handheld communication device [col. 1: lines 32-43].

Regarding claim 4, Vapaakoski discloses the peripheral device comprises an accessory [col. 1: lines 32-43].

Regarding claim 8, Vapaakoski discloses restricting the operation of the peripheral in response to the step of comparing [fig. 1: ref. 112].

Regarding claims 9 –11, Vapaakoski discloses indicating incompatibility comprises sending a visual, audible or physical alert to the user [col. 3: lines 17-19].

Regarding claims 5, 13, and 15, Vapaakoski disclose the peripheral device includes accessories [col. 1: lines 32-43]. What Vapaakoski does not specifically disclose is that the peripheral device includes a battery. However, the Examiner takes Official Notice that it is well known in the art to attach a battery to a communication device in order to power the device. Further it is obvious that the battery would need to be compatible with the communication device in order for it to work.

Regarding claim 7, Vapaakoski discloses restricting the operation of the peripheral in response to the step of comparing [fig. 1: ref. 112], but does not specifically disclose restricting the operation of the radio in response to the step of comparing. At the time of the invention, it would have been obvious to one of ordinary skill in the art to also restrict the operation of the radio if it is determined that the operation of the radio would not be safe.

Regarding claims 16-18, Kenton discloses the peripheral device is processor-less as regards to the intrinsically safe operating system [abstract; col. 2: lines 9-15; col. 8: lines 15-25].

Regarding claims 19-22, claims 19 and 21 depend on claim 12 and claims 20 and 22 depend on claim 14. As discussed above, Vapaakoski discloses the limitations of claims 12 and 14. What Vapaakoski does not specifically disclose is the limitations of claims 19-22. However, Kenton teaches these limitations. Regarding claims 19 and 20, Kenton discloses the peripheral device is processor-less as regards to the intrinsically safe operating system [abstract; col. 2: lines 9-15; col. 8: lines 15-25]. Regarding claims 21 and 22, Kenton discloses the communication device bases the restricting solely on determinations made within the communication device [abstract; col. 2: lines 9-15; col. 8: lines 15-25].

Vapaakoski and Kenton are combinable because they are from the same field of endeavor, that is, determining compatibility of communication devices and peripheral devices. At the time of the invention, it would have been obvious to one of ordinary skill in the art to modify Vapaakoski to include Kenton. The motivation for this combination would have been to require less processing power by having the communication device make the determination.

### ***Response to Arguments***

6. Applicant's arguments filed September 13, 2005 have been fully considered but they are not persuasive. Regarding claims 12 and 14, Applicant argues that

Vapaakoski does not teach restricting the peripheral devices to predetermined levels of operation or selectively restricting operation of the peripheral devices. However, the Examiner respectfully disagrees as restricting the operation is broadly interpreted as allowing the peripheral device to function or not function.

Applicant's arguments with respect to claims 1, 2, and 6 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Erika A. Gary whose telephone number is 571-272-7841. The examiner can normally be reached on Monday-Thursday and alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Feild can be reached on 571-272-4090. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

EAG  
November 22, 2005

  
ERIKA A. GARY  
PRIMARY EXAMINER